



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2013-0179]

Proposed Revisions to Maintenance Rule Standard Review Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-draft section revision; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising the following section in Chapter 17, "Quality Assurance" and soliciting public comment on NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition," Section 17.6, "Maintenance Rule."

DATES: Comments must be filed no later than [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION]. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0179**. Address questions about NRC dockets to Carol Gallagher; telephone: 301-287-3422; e-mail: Carol.Gallagher@nrc.gov. For technical questions, contact the individual(s) listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **Mail comments to:** Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN-06A56, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on accessing information and submitting comments, see “Accessing Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Jonathan DeGange, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-6992 or e-mail: Jonathan.DeGange@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID **NRC-2013-0179** when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID **NRC-2013-0179**.

- **NRC’s Agencywide Documents Access and Management System (ADAMS):** You may access publicly available documents online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “[ADAMS Public Documents](#)” and then select “[Begin Web-based ADAMS Search](#).” For problems with ADAMS,

please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS Accession numbers for the redline document comparing the current revision and the proposed revision are available in ADAMS under Accession Nos. Section 17.6, Proposed Revision 2 (ML13015A125), Current Revision 1 (ML072920088), Redline (ML13015A426).

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

B. Submitting Comments

Please include Docket ID **NRC-2013-0179** in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <http://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Further Information

The Office of New Reactors and Office of Nuclear Reactor Regulation are revising this section from the current Revision 1. Changes in this revision include revised scoping and the new generic FSAR template guidance in the review procedures section, and revised references. Details of specific changes are included at the end of the proposed section.

The changes to this Standard Review Plan (SRP) Chapter reflect current staff review methods and practices based on lessons learned from NRC reviews of design certification and combined license applications completed since the last revision of this chapter. Changes include removal of reference to Regulatory Guide (RG) 1.182 which was superseded by RG 1.160 and adding reference to industry guidance Nuclear Energy Institute (NEI) 07-02A (ADAMS Accession No. ML103410542).

The NRC staff is issuing this notice to solicit public comments on the proposed SRP Section in Chapter 17. After the NRC staff considers any public comments, it will publish a final SRP Section in Chapter 17.

Backfitting and Issue Finality

This draft SRP, if finalized, would provide guidance to the NRC staff for reviewing applications for a construction permit and an operating license under Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR), with respect to compliance with the Maintenance Rule, 10 CFR 50.65 and the guidance in Nuclear Management and Resources Council (NUMARC) 93-01 as approved for use by the NRC in Regulatory Guide (RG) 1.160. The draft SRP would also provide guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR Part 52 with respect to these same subject matters.

Issuance of this SRP draft section revision, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR Part 52. The NRC's position is based upon the following considerations.

1. The draft SRP positions, if finalized, would not constitute backfitting, inasmuch as the SRP is internal guidance to NRC staff.

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR Part 52.

2. The NRC staff has no intention to impose the SRP positions on existing licensees either now or in the future.

The NRC staff does not intend to impose or apply the positions described in the draft SRP to existing licenses and regulatory approvals. Hence, the issuance of a final SRP – even if considered guidance within the purview of the issue finality provisions in 10 CFR Part 52– would not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that does not provide issue finality as described in the applicable issue finality provision, then the NRC staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. Backfitting and issue finality do not – with limited exceptions not applicable here – protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR Part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR Part 52 – with certain exclusions – were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR Part 52 license (e.g., an early site permit) and/or NRC regulatory approval (e.g., a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the draft SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the NRC staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 30th day of July 2013.

For the Nuclear Regulatory Commission.

George M. Tartal, Acting Chief
Policy Branch
Division of Advanced Reactors and Rulemaking
Office of New Reactors

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